

ARKANSAS SUPREME COURT

No. CR 06-212

NOT DESIGNATED FOR PUBLICATION

JAMES LAWSON
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered April 6, 2006

PRO SE MOTION FOR RULE ON CLERK
[UNION COUNTY CIRCUIT COURT, CR 2003-
151, HON. HAMILTON HOBBS SINGLETON,
JUDGE]

MOTION DENIED

PER CURIAM

James Lawson entered a conditional plea of guilty to one count of possession of a controlled substance, cocaine, with intent to deliver, and was sentenced to 240 months' imprisonment in the Arkansas Department of Correction, with 60 months' suspended imposition of sentence. The Arkansas Court of Appeals affirmed the conviction. *Lawson v. State*, ___ Ark. App. ___, ___ S.W.3d ___ (December 15, 2004). Mr. Lawson timely filed a petition for postconviction relief under Ark. R. Crim. P. 37.1, which was denied. Mr. Lawson then timely filed a notice of appeal from that order on May 16, 2005, but did not tender the record to this court within ninety days of that date. On February 28, 2006, Mr. Lawson filed the motion for rule on the clerk now before us, along with a partial record.

The time limit set in Ark. R. App. P.--Civ. 5(a), as applied through Ark. R. App. P.--Crim. 4(a), requires that the record must be tendered within ninety days of the date of the notice of appeal. All litigants, including those who proceed *pro se*, must bear responsibility for conforming to the rules of procedure or demonstrating a good cause for not doing so. *Peterson v. State*, 289 Ark. 452, 711 S.W.2d 830 (1986) (*per curiam*); *Walker v. State*, 283 Ark. 339, 676 S.W.2d 460 (1984) (*per curiam*); *Thompson v. State*, 280 Ark. 163, 655 S.W.2d 424 (1983) (*per curiam*). See also *Tarry v. State*, 353 Ark. 158, 114 S.W.3d 161 (2003) (*per curiam*).

In *McDonald v. State*, 356 Ark. 106, 146 S.W.3d 883 (2004), this court clarified its treatment

of motions for rule on the clerk and motions for belated appeal. We said that there are only two possible reasons for an appeal not to be timely, either the party or attorney filing the appeal is at fault or there is good reason. If the party believes there is good reason the appeal was not perfected, the case for good reason can be made in the motion, and this court will decide whether good reason is present. *Id.* at 116, 146 S.W.3d 891.

Petitioner Lawson's only explanation for his failure to tender the record prior to that deadline is that the Union County Circuit Clerk refused to do so upon his request in his notice of appeal. It is not the duty of the circuit clerk, or the responsibility of anyone other the petitioner, to perfect an appeal. *See Sullivan v. State*, 301 Ark. 352, 784 S.W.2d 155 (1990) (*per curiam*); *Bragg v. State*, 297 Ark. 348, 760 S.W.2d 878 (1988) (*per curiam*).

The purpose of the rule setting time limitations on lodging a record is to eliminate unnecessary delay in the docketing of appeals. We have made it abundantly clear that we expect compliance with the rule so that appeals will proceed as expeditiously as possible. *Jacobs v. State*, 321 Ark. 561, 906 S.W.2d 670 (1995) (*per curiam*) (citing *Alexander v. Beaumont*, 275 Ark. 357, 629 S.W.2d 300 (1982) (*per curiam*)). Because a petitioner is responsible for tendering the record within the time allowed by the prevailing rules of procedure, and petitioner has failed to show good cause for his failure to comply with that procedure, his motion for rule on the clerk is denied.

Motion denied.